

Minnesota imposes a \$0.27 per month 911 surcharge applicable to all telephone subscribers. Only 3.2 cents of that surcharge has been budgeted for Phase I implementation. Additional disbursements and related carrier cost reimbursement issues remain to be resolved.

### **Choice of Technology Issues**

Minnesota authorities originally insisted on a particular technology for Phase I implementation. However, state officials are now negotiating technology-neutral specifications with carriers.

### **Other Issues**

Contract negotiation issues.

### **History**

In Minnesota, E911 implementation is administered on a State-wide basis by the Minnesota Department of Administration (the "DOA"), which is headed by Commissioner David Fisher. The DOA has split its E911 implementation plan into two geographic regions. One region is the seven-county Minneapolis/St. Paul metropolitan area, which is represented by the Metropolitan 911 Board ("Metro"). The other is the remainder of the State, referenced as "Greater Minnesota."

The Minnesota 911 statute requires all carriers, both wireline and wireless, to collect a 911 surcharge of between eight and thirty cents per subscriber. This price range allows the surcharge to be increased to cover costs over time. As of July 1, 1998 the surcharge was fixed at twenty-seven cents. The total amount collected statewide is placed in a single 911 fund. Of each twenty-seven cents collected, the current DOA budget estimate has earmarked 3.2 cents for a wireless implementation fund intended to pay the installation and recurring charges for integrating wireless 911 calls into enhanced 911 networks.

In 1997 the DOA requested Phase I E911 service on behalf of all the PSAPs in the State. Since then the wireless carriers of Minnesota have been negotiating with Metro and the DOA to arrange for the E911 implementation. However, implementation has been delayed for four reasons: 1) disagreements over choice of technology; 2) disagreements over technology specifications; 3) lack of specific cost recovery procedures; and 4) disagreements over service agreement terms. The following will discuss each of these reasons in turn.

### **Choice of Technology**

Although the FCC does not mandate the use of any particular E911 technology, Minnesota insisted on a particular technology, namely, a Feature Group D class of service with a wireless interface device ("WID") for both CAS and NCAS signaling formats. The State chose this technology based on its claim that it could not afford to upgrade its PSAP equipment to support an SS7 class of service. A carrier accounting analysis of 911 surcharges collected by the State over the past thirteen years demonstrated that the State had collected sufficient funding to accommodate an SS7 upgrade. In light of this data, the State recently reexamined its funding and indicated that it may be able to afford the upgrade. An April 1999 joint statement of the commissioners of administration and public safety stated that the state would allow the carriers to have their choice of E911 technology.

Throughout the process, the Minnesota wireless carriers preferred the option of using either the CAS or NCAS solution. Those using the NCAS solution did not want to be required to use the WID, as originally demanded by the State. This is because the WID imposed two technical problems as explained below.

The first technical problem with the WID is that it creates a call completion delay which some carriers consider unacceptably long. In field testing conducted by wireless carriers in Minnesota, the completion delays were as long as fourteen to eighteen seconds. The second problem with the WID is that it does not serve as a platform for Phase II. This means any Feature

Group D-WID system deployed today may have to be replaced within a relatively short time to meet the FCC's Phase II mandate. The Minnesota statute itself requires any E911 system design to take Phase II needs into account.

Although US West Wireless preferred the SS7 approach, it reached a compromise in Minnesota under which it proceeded to implement E911 service in the Minneapolis/St. Paul area using the State-mandated Feature Group D-WID approach. The carrier has not yet implemented E911 service in the Greater Minnesota area but plans to cover that area soon. Earlier this year, after experiencing call completion delays of about 14 seconds, the carrier installed a CellLink device (commonly known as a "false ring-back") which artificially causes the caller to hear a ring before the call actually reaches the PSAP. This technical modification has slightly reduced the apparent time delay and so far, the carrier has not heard any time delay complaints from subscribers or PSAPs. Other carriers oppose the CellLink device on the grounds that it does not cure the time delay problem, may still cause subscribers to hang up and redial, and may give the appearance that the PSAP is not promptly answering the call.

## **Technology Specifications**

The carriers are also negotiating with the DOA and Metro to develop the needed technology specifications. At one point, all parties agreed to adopt a technology-neutral set of standards. However, when the DOA issued its draft for the standards, the carriers did not consider them technology-neutral. Rather, the State's specifications effectively continued to promote Feature Group D. Since then the carriers rewrote the specifications in the form of "guidelines" which it then submitted to the DOA. In response, the DOA established a joint government-industry committee to review the matter. The parties are hopeful that the guidelines can be finalized in a meeting to be convened shortly.

## **Cost Recovery**

A specific cost recovery mechanism is not in place in Minnesota. While the State 911 statute provides for the collection of the surcharge and sets forth guidelines for a carrier to have its costs pre-approved and certified by the State, there is no mechanism for the distribution of the monies collected and insufficient guidance on what costs the State is willing to reimburse. It is also unclear how carriers would recover their costs if their cost certifications are rejected by the State. Given the lack of a specific cost recovery procedure, the carriers worked actively with the State to amend the statute with more specific cost recovery provisions. Unfortunately, the legislation has been deferred pending discussions with the new commissioners of administration and public safety.

## **Service Agreement Terms**

In the absence of complete statutory language on cost recovery, the carriers and the DOA are now trying to resolve the above-described cost recovery issues in the context of their E911 service agreements. The lack of statutory guidance has compounded the difficulties of negotiating a service agreement while ironically making it more important to reach an agreement in that State.

Numerous draft agreements have been exchanged between the parties since the spring of 1998. The DOA recently asked the joint government-industry committee to create a single model service agreement, rather than force the State to negotiate a separate agreement with each carrier. The carriers are working together to develop universally acceptable language.

## **Conclusion**

The carriers are committed to working with the State to resolve all of the above issues. The finalization of the service agreement could go a long way toward reaching this goal.

## **MISSISSIPPI**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

Mississippi has imposed a \$1.00 per month per subscriber E911 surcharge, with 30% of surcharge funds dedicated to reimbursement of carrier Phase I costs.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

In 1994, Mississippi passed legislation to impose a fee on wireless subscribers which varied from 80¢ to \$1.00. Between 1995 and 1997 unsuccessful attempts were made to raise the ceiling to \$2.00, with no set aside for Phase I. Prior to the 1998 legislative session, Wireless Industry and Public Safety representatives agreed to a flat, statewide rate with a designated portion to meet the requirements of FCC 94-102. Legislation was introduced in the 1998 session and passed without serious opposition. It has the following major provisions:

- A five-member state board includes three PSAP representatives and two members of the wireless community.
- Fee is set at \$1.00, seventy percent to the PSAPs and thirty percent to reimburse CMRS providers for Phase I.
- All requests for reimbursement must be approved by the state board.
- Includes limitations on liability.

Cost Recovery rules have been published for public comment, to be approved at the July meeting of the state board. Phase I deployments are expected to increase rapidly in fall of 1999.

## **MISSOURI**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

The Missouri General Assembly created an Interim Committee to study telecommunications issues after the 1997 session. Among the issues studied was wireless E911. PSAPs and the industry began meeting in June 1997 to discuss a proposed cost recovery mechanism and reached partial agreement prior to the beginning of the 1998 General Assembly. The only dispute between PSAPs and the industry was the amount of the fee. PSAPs were seeking a fee between \$0.75-\$1.00. The industry was committed to a fee not to exceed \$0.50 or actual costs. Ultimately, legislation was passed which left the fee up to The Office of Administration but capped the amount at \$0.50.

Because of a constitutional amendment requiring statewide fees and taxes to be voted on by the people, the issue was placed on the ballot in April of 1999. Despite support from public safety and the wireless industry, the measure was defeated by a 58-42 margin. It is not likely to be placed on the ballot again this year.

All other provisions of the enacting law remain in effect, including creation of an advisory board consisting of 3 PSAPs and 3 carrier reps.

## **MONTANA**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

Montana imposes a \$0.50 per month fee on all subscribers. The fee is split equally with one half going to basic 9-1-1 services and the other half to be applied to enhanced 9-1-1 services.

Montana uses a 9-1-1 planning system, and all expenditures made in a 9-1-1 jurisdiction are made pursuant to a plan approved by the Department of Administration. The 9-1-1 jurisdiction is not a county or city, but rather it is a group of public or private safety agencies that operate within or are affected by one or more common central office boundaries.

The Montana legislation does not allow for the costs incurred by wireless providers to be reimbursed upon installation of the system, but instead states that compensation of the carriers conversion costs must be made available within one year of the initial installation of the system. The legislative language may make it difficult for wireless carriers to get reimbursed for all of their costs in a timely manner.

## **NEBRASKA**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

Legislation was filed in 1999, LB 570, that would have extended the 911 fee to wireless telecommunications services. Existing law, section s86-1002, 86-1003 and 86-1004 allow counties, municipalities and rural fire districts to impose a fee on telephone lines of up to \$1 per month. The legislation proposed, LB 570, had no references to the FCC Order, nor did it attempt to consider wireless technology in its definitions of ANI and ALI.

The wireless industry supported the implementation of wireless E911, but opposed legislation that would provide no mechanism to fund the service. The industry and representative PSAPs met with Senator Engles on 2-16-99 to discuss compromise legislation. The industry agreed at that time to a \$.50 statewide fee which would be earmarked for wireless E911 incremental costs and distributed from a statewide fund. Wireless carriers argued for the Administrative Services Department to administer the fund, but there was no resolution at that time.

A subcommittee, including two wireless industry representatives and representatives from the League of Municipalities and the Association of Counties, was formed to draft compromise legislation. An industry draft was provided to the group, but despite attempts to contact the LOM and AOC, no meeting was ever held. The bill never made it out of committee, but will be carried over into the 2000 session.

## **NEVADA**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

## **History**

Nevada funds 911 through property taxes in general, although there is a 25 cents per month fee on all telecomm bills just in Washoe County (area around Reno, population approximately 400,000). Washoe began funding on Jan 1, 1996 with a December 31, 2001 sunset (bi-ennial bills extend the sunset). This year Bill 487 was passed and signed into Chapter 120 providing that wireline, wireless, PSAP or manufacturer are NOT liable to users of enhanced 911 services. The Nevada legislature fears a fee based cost recovery mechanism due to concerns that customers in Las Vegas would fund the wireless 911 system for the rest of the state.

## **NEW HAMPSHIRE**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

New Hampshire imposes a \$0.42 per month per subscriber 911 surcharge. However, no process for disbursing these funds to carriers exists at present.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

One New Hampshire PSAP withdrew its request for Phase I service from at least one carrier after learning of that carrier's implementation costs.

## **History**

New Hampshire has had a wireless 911 statute, HB 726, in place since June 20, 1997. The statute is very short and lean on the issues that it deals with. It requires CMRS providers to make 911 available to the public but acknowledges carriers right to reimbursement for what it calls "reasonable expenses" incurred in connection with the FCC's 911 Order for the installation of 911 equipment. The fee is administered by the Bureau of Emergency Communications which may use the services of a consultant or any other state agency to assist them in reviewing requests for reimbursement. It also requires the collection of a 911 surcharge monthly on customer bills up to a maximum of twenty-five lines. The funds are to be used exclusively for the development and operation of enhanced 911 services. Surcharge amounts are determined periodically by the Bureau of Emergency Communications. The fee is set at \$.42 per month per access number up to 25 per customer. Carriers began collecting the fee in August 1997. The state has only one PSAP that is Phase I ready and capable of receiving enhanced data.

## **NEW JERSEY**

### **Phase 1 Implementation Status**

None at this time.

## **Cost Recovery Mechanism**

Limited state general funds have been made available for payment of some Phase I carrier costs.

## **Choice of Technology Issues**

None at this time.

## **Other Issues**

LEC provisioning issues have delayed deployment efforts by some carriers. Also, the state's refusal to accept national pricing by carriers has delayed deployment.

## **History**

Despite an early foray into wireless E911 technology testing, statewide Phase I implementation in New Jersey for all carriers remains stalled due to differences regarding the FCC order's cost recovery element and related considerations.

Beginning in early 1997, the New Jersey Office of Emergency Telecommunications ("NJOETS") conducted a three-month trial of one particular type of Phase II technology. A report detailing results from the first 100 days of that test<sup>16</sup> was sent to the state's wireless carriers on July 9, 1997, along with a letter containing a "voluntary" request for Phase I service commencing on November 20, 1997.<sup>17</sup> This letter also invited the carriers to a meeting with NJOETS, which was held in Trenton on August 20, 1997.

The August 20<sup>th</sup> meeting was planned to focus on the technical aspects of Phase I implementation. However, the NJOETS director at the time, S. Robert Miller, also made it clear in this meeting that his agency would only pay for in-state trunking costs incurred by carriers in connecting to the state's four selective routers. All other carrier costs in implementing Phase I service in New Jersey would have to be borne by the carriers, according to Miller.<sup>18</sup> Additionally, Miller advised carriers that NJOETS would select the Phase I technology to be deployed in New Jersey. As to the choice of technology issue, Miller informed the attendees that wireless carriers would only be allowed to interconnect with the state's E911 system via a callpath-associated network architecture.

Faced with the state's position on these two issues, the New Jersey wireless carriers worked collectively with legislators and members of the public safety community throughout 1998 regarding necessary amendments to the state's 911 statute.<sup>19</sup> Changes included revisions to make the statute applicable to wireless carriers, as well as to reflect the provisions of the FCC order. Legislation was consequently introduced, passed, and signed by the Governor which made significant progress towards those goals.<sup>20</sup> However, the critical issue of funding needed to complete wireless E911 deployment was deferred until a subsequent legislative session, due to political difficulties that would arise during the 1999 election from the enactment of a new surcharge at a time of state budgetary surpluses.

Simultaneously with those collective legislative efforts, each wireless carrier also commenced ongoing individual discussions with NJOETS. These discussions, which began in 1997 and continue, in some cases, as of the date of this report, have yielded only partial progress with NJOETS. As of the date of this report, NJOETS has stated that it will only pay for what it deems to be "necessary" engineering costs associated with Phase I implementation, in addition to trunking costs. In addition,

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<sup>16</sup> Report on the New Jersey Wireless Enhanced 9-1-1 System Trial - January 22 to April 30, 1997, State of New Jersey, Division of State Police, dated June 16, 1997. The New Jersey Phase II E911 test used time difference of arrival technology located in 24 of Comcast Cellular's cellsites in the southern portion of the state.

<sup>17</sup> Letter by S. Robert Miller, NJOETS director, dated July 9, 1997.

<sup>18</sup> Significantly, New Jersey is one of the few states in which wireline E911 has been implemented, despite the absence of a wireline 911 surcharge. The funding source for wireline E911 deployment, a \$94 million bond issuance undertaken by the state in 1991 to pay Bell Atlantic's costs for the statewide system through 2004, has not been replicated to date for wireless E911 implementation.

<sup>19</sup> N.J.S.A. 52-17C-1 et seq.

<sup>20</sup> Citation to NJ E911 bill. This bill was signed into law by Governor Whitman on June 24, 1999.

NJOETS has refused to accept a carrier cost reimbursement formula based on a monthly per-subscriber charge. Finally, the current acting director of NJOETS, Craig Reiner, has recently reiterated that his agency will deploy Phase I service in New Jersey only with those carriers that will accept the state's formulation regarding recoverable Phase I costs.<sup>21</sup>

Because of the state's position regarding cost recovery and technology choice, statewide Phase I service has not been implemented in New Jersey as of the date of this report. Despite each carrier's existing ability to comply with a valid Phase I request, prospects for success in those negotiations may be contingent upon movement by NJOETS in its positions regarding Phase I costs and technology choice.

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## **NEW MEXICO**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

New Mexico does not currently have a statewide wireless E911 program, a wireless E911 tax or a mechanism for cost recovery.

New Mexico state law currently contains an E911 surcharge and implementation program for "local exchange access lines." This surcharge on wireline customers is currently 51 cents per access line per month.

In 1999, a coalition of law enforcement/911 officials, the Municipal League, the Association of Counties, and the rural telephone cooperatives urged the amendment of the current E911 program. Senator Stockard introduced SB 86, a bill that would have applied the surcharge to wireless subscribers, but would not have created a direct method of cost recovery by wireless carriers. Representative Stell introduced similar legislation (HB 456) in the House. In spite of efforts by the wireless industry to dissuade legislators from adopting legislation that would not satisfy the FCC Order, HB 456 passed the House. On the Senate floor, Senator Maes offered an amendment, supported by the wireless industry, that would have established a separate wireless 911 fee fund and would have created a mechanism for the recovery of costs by wireless carriers as well as provided funds for the PSAPs and the state. The amendment passed but, thereafter, both bills died and the legislative session ended.

A "task force" of stake-holders including wireless companies is meeting to draft legislation for the 2000 legislative session (January 2000). The first meeting is scheduled for July 6, 1999 at the State Capitol, Santa Fe, New Mexico.

## **NEW YORK**

### **Phase 1 Implementation Status**

None at this time.

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<sup>21</sup> Correspondence between NJOETS and AT&T Wireless Services, dated May 20, 1999.

### **Cost Recovery Mechanism**

None at this time. The state's \$0.70 per month per subscriber wireless 911 surcharge is not dedicated to E911 deployment.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

New York was one of the first states in the nation to enact a wireless 911 surcharge in 1991. However, since that time, institutional failures, inadequate fiscal safeguards and local government budgetary concerns, coupled with outmoded state statutes have combined to thwart wireless E911 implementation throughout the state.

New York State enacted a \$0.70/month/subscriber wireless telephone surcharge in 1991 – five years before issuance of the FCC's wireless E911 mandate in 1996. The stated statutory purpose of the funds raised through this surcharge was clear. According to the statute, those funds were - “for payment of division of state police costs related to statewide operation of a cellular 911 emergency telecommunications system.”<sup>22</sup>

The New York wireless surcharge was imposed with significant prevailing conditions:

1. Surcharge is double the \$0.35/month/subscriber charge imposed on wireline phone customers;
2. Collected wireless 911 surcharge revenue was sent to the State Comptroller for disbursement to the State Police; later was changed and is now sent directly to State Police by carriers. Wireline 911 surcharge revenue is sent directly to counties.
3. Other than the above stated purpose, there is no accountability or description of what a “statewide operation of a cellular 911 emergency telecom communication system” would look like;
4. Original scope of surcharge was to cover limited expenses by State Police in answering mobile phone 911 calls in parts of upstate New York only -- cellular/wireless telephone penetration levels were barely 10% in New York State and wireless calls were not a significant portion of call volume.

There was little, if any, opposition to this method of surcharging wireless customers at the time of its imposition. Instead, local 911 system operators of the less populated counties in upstate New York focused on the low \$0.35/month/subscriber wireline surcharge as their small populace was not enough to support the 911 system operation that was required in their counties. Several legislative attempts were made in the early and mid 1990's to provide for an increase of the wireline surcharge for counties with populations of “up to 100,000 of up to \$1.00/month/access line”. All of these attempts failed, creating a disparity of 911 operations throughout the state. This surcharge method for both wireless and wireline customers also created an over-reliance upon surcharge revenues for undefined or ill-defined 911 “operations” at the local level.

### **Current Status**

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<sup>22</sup> County Law §309(3)

The genesis of the New York 911 telephone surcharge methods go a long way in explaining some of the current problems in trying to provide E911 wireless service in New York. Despite an ever-growing fund of wireless surcharge revenue that has existed for almost 8 years, New York is no closer to providing E911 wireless service because of several major reasons:

1. All surcharge revenue goes to one "PSAP-entity" (i.e., the State Police) that does not have statewide jurisdiction or accountability;
2. There are no fiscal safeguards to ensure that wireless surcharge revenues are spent only for the delivery of wireless E911 service. Contributing factors include the lack of a dedicated fund for surcharge revenues, the absence of specific restrictions on use of surcharge collections, and no audit provisions to document compliance with County Law §309; and,
3. The large disparity of wireless and wireline 911 surcharge collections across the state tempts local governments to view surcharge revenues solely as general county budget supplements rather than the means for FCC order implementation.

These reasons are responsible for the recent spate of legislative proposals that are designed to divert portions of the existing wireless surcharge revenue to entities other than the State Police. Some of these bills would allow several counties that do not receive 911 service from the State Police to access wireless 911 surcharge funds for purchases of ambulances, communications vehicles and safety equipment for firefighters.

Other proposals would have wireless carriers route 911 traffic directly to the counties, instead of the State Police, thereby creating a nexus to wireless 911 surcharge funds for the counties. Finally, there are additional efforts to increase the wireline 911 surcharge to provide less-populated counties with enough funds to operate their 911 systems.

All of these proposals continue to fight over 911 surcharge revenue. Not one of these bills addresses implementation of the FCC order.

The New York Wireless Carriers' Coalition drafted state legislation that was introduced in March 1999 that reflects the realities of the FCC order<sup>23</sup>. Despite significant progress during this legislative session, this bill has not yet been released from committee.

The 1991 law needs to be updated and revised because of its limited scope of fund access and accountability. Such a law revision will also highlight the need for local and state 911 operators to change priorities in how they administer and perform future upgrades to their systems.

### Wireless Industry Efforts

The wireless carriers drafted state legislation that was introduced in March 1999 that seeks the following changes:

1. Adds definitions to reflect technological and Federal regulatory changes that have occurred over the past decade (tracks FCC order's 3 preconditions);
2. Establishes a dedicated wireless emergency telephone service fund to be used to implement wireless E911 service throughout the state;
3. Transfers responsibility for the existing \$0.70 per month wireless 911 surcharge from the State Police to the Comptroller;
4. Creates a State 911 Commission to advise the Comptroller regarding the collection and disbursement of wireless 911 surcharge funds; and
5. Grants wireless telecommunications carriers the same civil liability limitation for 911 calls as is currently provided to wireline carriers by the New York Public Service Commission.

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<sup>23</sup> A.7550/S.5357

The wireless industry in New York remains committed to fulfilling the FCC order throughout the state. However, until there is meaningful reform of the various factors impeding wireless E911 implementation, wireless subscribers in the state will continue to pay surcharges and receive no greater service than they received in 1991.

## **NORTH CAROLINA**

### **Phase 1 Implementation Status**

Phase I has been implemented in parts of North Carolina.

### **Cost Recovery Mechanism**

North Carolina has imposed a \$0.80 per month per subscriber surcharge, sixty percent of which is dedicated to carrier cost recovery.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

Beginning in April 1997, Wireless Industry and Public Safety representatives jointly addressed wireless 911 and the requirements of FCC 94-102. After resolving disagreements regarding the existence and composition of a state oversight board and whether the fee should be imposed county by county or statewide, legislation was crafted and introduced in 1998. Concerns of the trial lawyers and questions regarding the amount were addressed, and the legislation was passed. It has the following major provisions:

- A thirteen-member state board includes a LEC representative, municipal and PSAP employees, and five members of the wireless community.
- Fee is set at 80¢, forty percent to the PSAPs and sixty percent to reimburse CMRS providers for Phase I.
- All requests for reimbursement must be approved by the state board.
- Includes limitations on liability.

Interim Cost Recovery rules are in place. Phase I deployments are expected to increase rapidly in fall of 1999.

## **NORTH DAKOTA**

## **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

North Dakota does not currently have a statewide wireless E911 program and a mechanism for cost recovery.

Prior to the 1999 legislative session, wireless carriers held several discussions with the North Dakota 911 Association and the North Dakota Association of Counties with the purpose of drafting legislation that would establish a statewide wireless E911 program and cost recovery. The discussions ended without consensus and, at the beginning of the 1999 legislative session, the counties and PSAPs supported the introduction of Senate Bill 2307.

Senate Bill 2307 would have established a \$1.00 surcharge without any cost recovery to carriers. The bill also contained many inconsistencies with the FCC Order. The bill drew the attention and effort of wireless carriers. The industry testified in committee, urging the committee to adopt amendments that would provide cost recovery and reduce the surcharge. The House passed the bill with amendments that reduced the surcharge to 25 cents and clarified, to a certain extent, wireless cost recovery. In conference committee, the bill was amended once again, this time to raise the surcharge to 40 cents, strip the cost recovery language and conduct a study of "wireless E911 technology." The 40 cent surcharge was to be divided 25 cents to the PSAPs for any purpose other than the deployment of wireless E911 and 15 cents to be placed into escrow to fund wireless E911.

Upon the urging of the wireless industry, SB 2307 was vetoed by Governor Ed Schafer. Governor Schafer vetoed SB 2307 because (1) the bill imposes a new \$2 million tax on wireless users, (2) the bill creates a planning committee that does not include taxpayers, emergency medical service representatives, or law enforcement personnel and which will develop a plan that will not be considered again until the 2003 legislative session, (3) the tax should not be imposed without a commensurate reduction in the landline taxes, and (4) the tax will not meet the goal of financing enhanced 911 because the funds can be used to support existing 911 service.

## **OHIO**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

**History**

Legislation that would provide for wireless E911 cost recovery through the establishment of a statewide wireless surcharge, a state fund and full indemnification is currently pending in the state legislature. The legislation is supported by the wireless industry. However, it is unclear whether the bill will pass in 1999 because of the perception that the surcharge is a tax increase.

**OKLAHOMA**

**Phase 1 Implementation Status**

None at this time.

**Cost Recovery Mechanism**

None at this time.

**Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

**History**

The State of Oklahoma has not enacted wireless E911 legislation. In the 1999 legislative session, a wireless E911 bill was introduced that would have provided for a wireless E911 fee. However, given the strong anti-tax political environment in Oklahoma, the bill, which was viewed as levying new taxes, was defeated by the House of Representatives.

**OREGON**

**Phase 1 Implementation Status**

Phase I service has been implemented or is in the process of implementation by some carriers for some PSAPs. However, some carriers have not yet received Phase I requests in some areas.

**Cost Recovery Mechanism**

Oregon imposes a \$0.75 per month per subscriber 911 surcharge.

**Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

**History**

Since October 1995, wireless customers in Oregon have paid a surcharge of \$.75 per month (equivalent to the surcharge paid by wireline customers). Funds are administered by Oregon Emergency Management (OEM), a centralized authority working with PSAPs across the state. Wireless carriers receive statutory limitation of liability in the state of Oregon.

Oregon is the site of some of the country's first Phase I service deployments and is providing wireless E-911 service to more than 250,000 wireless customers today. One carrier has worked very successfully with OEM, accomplishing the full implementation of Phase I service in 16 PSAPs in the most heavily populated areas of the state as of 6/99. Another carrier is expecting to timely deploy service the service within the next 60 days.

However, some carriers, particularly new entrants into the Oregon service area, have not received Phase I service requests from OEM. This lack of uniform opportunity to deploy service is of increasing concern to smaller wireless carriers.

**PENNSYLVANIA****Phase 1 Implementation Status**

None at this time.

**Cost Recovery Mechanism**

None at this time.

**Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

**History**

Pennsylvania has yet to pass a wireless E-911 cost recovery bill. Currently, 911 is a county-by county function with landline 911 fees ranging from \$1.00 to \$1.50. The funding goes directly to the PSAPs for their operational costs. On 2/12/98, the Governor signed legislation (HB911) which gave the Pennsylvania Emergency Management Agency power to adopt rules, regulations and guidelines for the establishment of contribution rates; review and approve/disprove all 911 system county plans; establish minimum training and certification standards for dispatchers and call takers; develop technical standards for all county plans; establish standards for performance review and quality assurance for 911 systems and database systems. The Act also provides for triennial audits of the PSAPs and annual reports to the Governor and General Assembly. Immunity protection including protection for wireless carriers, was also included.

At that time, legislators decided not to include a wireless surcharge that could potentially be viewed as "raising taxes" in an election year. Alternatively, House Resolution 275 was passed required that PEMA conduct a study of the manner in which the Commonwealth and 911 systems may implement wireless E-911, plan for standardization and coordination between 911 systems and provide for funding and cost recovery. To date that study has not been completed.

## **Current Status**

Wireless carriers have drafted legislation to provide for a statewide wireless E-911 fee and plan for implementation.

Much of the past year was spent on trying to build consensus among the counties and the Pennsylvania Emergency Management Agency for a statewide surcharge. The counties in Pennsylvania have very different ideas of what a wireless E-911 surcharge should be. The counties would prefer a county-by-county fee, similar to the landline surcharge, that goes to fund their operational costs. Several counties have been urging legislators to introduce legislation that provides for a fee, but doesn't address the implementation of E-911. It is hoped that consensus with the counties will be forthcoming.

However, it appears that agreement on the legislation has been reached with PEMA. The wireless industry hopes to have action in the General Assembly this fall.

## **Key Points of the Legislation:**

### **Fee**

A \$.50 fee would be charged to all wireless service customers billed by a wireless provider and placed in a restricted Wireless E-911 Emergency Services Fund. The fee would be used to fund both PSAP and wireless carrier costs. Wireless carriers would be reimbursed for their Agency approved non-recurring expenses in an upfront payment from PEMA. Agency approved recurring costs would be retained by the carrier from its quarterly disbursement to PEMA along with 2% for administrative costs.

### **Advisory Board**

In the legislation as drafted, the Pennsylvania Emergency Management Agency would manage and direct a statewide implementation plan in consultation with a 5 member Wireless E-911 Emergency Services Advisory Board. The Advisory Board would be made up of 2 representatives from the Pennsylvania State Association of County Commissioners and 2 representatives from the wireless industry. The Director of PEMA would chair the Board. The duties of the Board include recommendations to PEMA regarding the wireless E-911 state plan and its implementation, wireless provider service agreements, technical standards, disbursements from the Fund, guidelines and regulations, annual reports to the Governor and General Assembly and a special report to each of them regarding implementation of wireless E-911 service in accordance with a Federal Communications Commission Order.

### **Disbursements of Funds by PEMA**

The legislation as drafted contains very specific language concerning disbursement of the Fund to PSAPs and wireless carriers. Should the Fund contain insufficient moneys for PEMA to fully reimburse all costs applied for and approved, funds shall be disbursed on a pro rata basis.

### **Audits and Reporting**

Regular and specific reporting and audits are provided for in the legislation. All disbursements provided to PSAPs and wireless carriers are subject to audit.

The wireless carriers in Pennsylvania have spent considerable time on crafting this legislation. The industry hopes that this detailed and comprehensive legislation will result in a quick and efficient implementation of Phase 1 in Pennsylvania.

## **RHODE ISLAND**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

Rhode Island imposes a \$0.47 per month per subscriber E911 surcharge.

### **Choice of Technology Issues**

The state has completed tests of a callpath-associated signaling network architecture, which it plans to require carriers to use once necessary equipment has been purchased.

### **Other Issues**

For several years, the state legislature has reallocated E911 surcharge funds for other purposes.

### **History**

In Rhode Island, progress towards deployment of Phase I service has been slowed due to legislative reallocation of wireless E911 surcharge funds and related technical issues. In addition, state concerns regarding technology choice and carrier cost recovery formulas may create additional hurdles to implementation.

As in neighboring Massachusetts, the delivery of 911 services by individual PSAPs is rendered under the auspices of a single statewide authority.<sup>24</sup> In turn, the statewide authority is assisted by an advisory board comprised of various public safety officials.<sup>25</sup> Both wireline and wireless service in Rhode Island are subject to a 0.47/month/subscriber surcharge.<sup>26</sup> Wireline E911 service has therefore been deployed throughout Rhode Island.

Regarding wireless E911 deployment, the state authority is working with individual PSAPs to complete any PSAP equipment upgrades required to accept Phase I data. However, implementation of Phase I service has been complicated by the fact that for the past several sessions, the Rhode Island Legislature has reallocated the funds collected by the state's E911 surcharge for other state purposes.<sup>27</sup> The Rhode Island E911 authority has therefore been in the process of devising a way to implement Phase I service at minimal cost. Tests of various network designs are ongoing in the state, and, subject to Bell Atlantic approval, the state authority expects to have its network elements installed in the near future.

Once the state has completed its network upgrades, final agreement must be reached with each wireless carrier regarding recovery of Phase I implementation costs. Although the Rhode Island wireless carriers are continuing those negotiations, the state has expressed reservations regarding carrier cost recovery formulas based on a per-subscriber charge. The relationship between wireless carriers and the Rhode Island authorities has been positive, however, and both parties expect to resolve any differences amicably.

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## **SOUTH CAROLINA**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

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<sup>24</sup> R.I. Gen. Laws § 39-21.1-5

<sup>25</sup> R.I. Gen. Laws § 39-21-4

<sup>26</sup> R.I. Gen. Laws § 39-21.1-14

<sup>27</sup> Collective efforts by the state and the wireless industry in the current legislative session have succeeded in halting this practice, at least for the coming year.

South Carolina collects a \$0.55 per month per subscriber, with 50% of collections dedicated to carrier cost reimbursement. Fee is set annually by State Office of Intergovernmental Relations (OIR) upon recommendation of Wireless 911 Advisory Committee.

**Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

**History**

Because of concerns about passing new taxes, cost recovery legislation was not passed in 1997. Prior to the 1998 legislative session, Wireless Industry and Public Safety representatives jointly addressed wireless 911 and the requirements of FCC 94-102. Although there were differences regarding the amount of the fee, legislation was introduced in 1998 and, after compromises, passed without serious opposition. It has the following major provisions:

- An eight-member state board includes a LEC representative, municipal and PSAP employees, and three members of the wireless community.
- Fee is set at 55¢, half to the PSAPs and half to reimburse CMRS providers for Phase I.
- All requests for reimbursement must be approved by the state board.
- Includes limitations on liability.

Cost Recovery rules are in place and the deployment plans of some carriers have already been approved. Phase I deployments are expected to increase rapidly in fall of 1999.

**SOUTH DAKOTA**

**Phase 1 Implementation Status**

None at this time.

**Cost Recovery Mechanism**

None at this time.

**Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

## **History**

South Dakota does not currently have a statewide wireless E911 program and a mechanism for cost recovery. There is, however, a landline 911 program to which wireless subscribers contribute. The surcharge is 75 cents per month.

The 1998 Legislature passed legislation requiring the Governor to appoint a task force to evaluate the current 911 emergency reporting system, develop a plan for the implementation of a coordinated statewide system, and provide recommendations for the implementation, operation, and funding of such a system in a report to the Governor by November 30, 1998.

On November 24, 1998, the task force made a recommendation in its report to the Governor to build a statewide integrated and coordinated public safety communications network. The executive branch is expected to develop a Comprehensive Telecommunications Plan by September 1, 1999, just prior to the 2000 legislative session.

In addition, there are efforts among some local governments to establish contractual relationships with wireless carriers for the provision of wireless E911 service.

## **TENNESSEE**

### **Phase 1 Implementation Status**

None at this time. However, Phase I deployments are expected to increase rapidly in the fall of 1999.

### **Cost Recovery Mechanism**

Tennessee imposes a \$0.85 per month per subscriber E911 surcharge. However, cost recovery rules have not yet been promulgated.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

## **History**

The wireless industry and the Public Safety Community independently pursued Wireless E911 legislation until 1998. Prior to that time, the Public Safety Community tried to pass legislation that included a surcharge on wireless customers. The surcharge would contribute to the overall cost of 911 but did not include any specific support for Wireless E911, or FCC Order 94-102. None of the proposals passed until a Legislative Study Committee was formed in 1997 to recommend a course of state action.

In 1998, Senators Bob Rochelle and Bob Hanes and Representatives Jerry Hargrove and Kim McMillan brought all parties together to resolve differences. H 3190 and S 3308 were the outcomes with what was probably the most comprehensive rewrite of state laws in the country to date. By statute, a separate funding bill was required in the 1998 session. SJR. 228 by Sen. Rochelle set the initial wireless E9-1-1 rate at \$0.85 which would increase to \$1.00 (for Phase II purposes) once the state's 5 major metropolitan areas had at least one carrier which had rolled out Phase I. The wireless industry and Public Safety

Community collaborated on legislative advocacy in both 1998 and 1999 to ensure passage of both bills. The highlights of the initial legislation are:

- Establishes powerful state board of nine members. No wireless industry representation on Board.
- Any rate change must be ratified by the Tennessee General Assembly.
- Carriers must implement rate within sixty days of notification of change from Board.
- Includes cost recovery provisions
- Specifies that 25% of monies collected through fund will be disbursed to Emergency Communications Districts (ECD) based on the proportion of the state population residing within each ECD.
- Tennessee E9-1-1 Board sent letter to carriers dated June 20, 1999 requesting implementation of the 9-1-1 surcharge within 60 days as required by statute.

## **TEXAS**

### **Phase 1 Implementation Status**

Phase 1 service is in the process of implementation for some PSAPs from some carriers. Phase I deployments are expected to increase rapidly in the fall of 1999.

### **Cost Recovery Mechanism**

Texas imposes a \$0.50 per month per subscriber surcharge. However, carrier cost recovery is contingent upon direct contractual negotiations with county PSAPs.

### **Choice of Technology Issues**

Carriers and PSAPs have faced extensive disagreements regarding technology choice issues in Texas.

### **Other Issues**

Contract negotiation issues, PSAP refusals to accept national carrier pricing, and individual cost disputes have also impacted Phase I deployment in Texas.

### **History**

In Texas, 22 Council of Governments have 9-1-1 responsibility overseen by the Advisory Commission on State Emergency Communications. Home rule cities (those with over 250,000 in population) are not covered by ACSEC decisions.

The wireless industry and the Public Safety Community independently pursued Wireless E911 legislation separately until 1997 (Texas Legislature meets every 2-years). Prior to that time, the Public Safety Community tried to pass legislation that included a surcharge on wireless customers. The surcharge would contribute to the overall cost of 911 but did not include any specific support for Wireless E911, or FCC Order 94-102. In 1997, the two-stakeholders met jointly to develop a compromise.

The Texas legislature passed its E-911 cost recovery bill in 1997 with the rate becoming effective on September 1. Since then, approximately \$40 million has been raised by the surcharge. There was an independent effort by Dallas/Fort Worth and Houston/Harris County to increase the fee during the 1999 legislative session.

As of June 1, 1999, various carriers have been working towards deployment of Phase I in fewer than ten Home Rule Cities in Texas.

Highlights of the initial legislation are:

- Creates \$0.50 fee for wireless users
- Establishes cost recovery at emergency communications district level
- Provides limitation of liability for wireless carriers
- Provides for non-disclosure of proprietary information

## **UTAH**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

Utah imposes a \$0.53 per month per subscriber 911 surcharge. However, no disbursement mechanism for those funds has been established to date.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

Utah passed legislation in 1996, which authorized counties to impose a \$0.50 surcharge on all telephone customers for basic 911 service. This charge was assessed equally on both wireless and landline subscribers, despite the reduced service provided to wireless customers.

In March of 1998, SB 221 was signed into law. SB 221 was drafted by the wireless industry and was passed through the legislature with the support of the wireless industry. The bill amended the existing statute (69-2-5) to increase the \$0.50 911 surcharge to \$0.53 on all customers. The bill also removed the cap of 5 wireless phones per account upon which the surcharge could be imposed. An analysis done at that time estimated the three-cent increase to be the equivalent of approximately \$0.30 on wireless users only and that the fee would be sufficient to fund Phase I.

Intent language was added to the bill at the request of the wireless industry as follows:

“It is the intent of the bill for all public agencies providing 911 emergency telephone service and receiving additional revenues authorized by this bill to utilize the funds to contract with wireless service providers for wireless enhanced 911 service, pursuant to Federal Communications Commission Rules adopted in CC Docket 94-102 (47 CFR 20, 18) and to otherwise pay for costs of implementing wireless enhanced 911.”

Although this language is only found in the intent section of the bill, the Utah courts have accorded such language significant deference.

According to one carrier, no PSAPs have requested wireless E911 under the provisions of SB 221. In addition, when and if the PSAPs impose the full \$0.53 surcharge, there is no system in place to ensure that the additional funds are earmarked for wireless E911 and there is no requirement that the PSAP subsequently request Phase I service.

The state legislative audit division is initiating an investigation into the use of the E911 surcharge by local governments. The wireless industry is working to provide information to this agency in order to facilitate the roll-out of Phase I.

## **VERMONT**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

There is currently no E911 cost recovery mechanism in the state of Vermont. No legislation has been introduced to provide for such funding. Similarly, no case has been initiated before the Vermont Public Service Board ("PSC") to establish such a cost recovery mechanism. To date, the Universal Service Docket has not dealt with the issue. Title 30, Section 7060 provides wireless carriers with a limitation of liability that is the same provided to landline carriers.

An Enhanced 911 Board was created legislatively and appointed by the Governor in 1994 to rollout landline 911. Currently, there is no wireless representation on the Board. A draft 10 year telecommunications plan drafted by the PSC, however, recognizes the need to create funding for wireless enhanced 911. The report recommends that the state fully fund wireless E911 through the state's USF program, which is how landline E911 is currently funded. The PSC annually establishes the funding levels necessary to fund landline E911 through a revised assessment rate. The PSC draft proposal recommends that wireless E911 cost recovery come from an annual allocation by the PSC out of the universal service fund to Enhanced 911 Board. New, additional funding would be derived from a revised assessment rate.

## **VIRGINIA**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

Virginia imposes a \$0.75 per month per subscriber wireless E911 surcharge, and has completed disbursement procedures for both PSAPs and carriers.

## **Choice of Technology Issues**

None at this time.

## **Other Issues**

None at this time.

## **History**

In 1998, the Virginia E-911 wireless industry bill passed the Virginia General Assembly and was signed by the Governor. The amended legislation established a statewide Wireless E-911 Fund (Fund), cost recovery for carriers and PSAPs, Wireless E-911 Service Board (Board), a 75 cent surcharge on each customer bill and immunity from liability for CMRS carriers. The new law provided CMRS carriers with a mechanism to recover costs in meeting the federal requirements for implementing E-911. The Wireless Enhanced Public Safety Telephone Service Act of 1998 (Act) also required CMRS carriers to provide an annual E911 cost estimate report. CMRS carriers are required to submit to the Board on or before December 31 of each year its estimate of wireless E-911 costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates (Section 56-484.11). However, implementation of the Act was delayed as the Board was not appointed by the Governor until mid-January 1999 and did not meet initially, until late January while the General Assembly debated two Wireless E-911 bills relating to funding and administrative matters.

## **1999 Legislation**

An amendment to SB 800 (budget bill) was introduced on behalf of the Administration to seek more funding for State Police resources in taking calls from new carriers in Virginia. The bill provided \$2,400,000 each year from non-general funds (Wireless E-911 Fund) for the Department of State Police to improve its capacity to respond to wireless E-911 telephone calls. Some localities transfer such calls to State Police rather than responding locally, with a resulting increase in workload for State Police in the Tidewater region of Virginia. The transfer of non-general funds from the Fund would be required to enable State Police to meet this increased demand for service until such time that the PSAPs would be ready to take Wireless E-911 calls. This was estimated at the time to be as early as June 1999 but more likely the end of 1999 or beginning of 2000. The Wireless Industry lobbied the General Assembly to work out an arrangement that satisfied all interests. In particular keeping in mind that, while the financial burden on the State Police to handle a heavy call load before the PSAPs ramped-up, it was important to maintain the integrity of the Fund. Finally an amendment passed that authorized the State Police to receive up to \$750,000 each year to offset dispatch center operating costs incurred for answering wireless 911 calls originating in localities for which the Department of State Police continues to serve as the PSAP for wireless 911 telephone calls. Payments to the State Police are to be made pursuant to procedures established by the Board. Another bill, HB 1880 was introduced to make a minor correction to the 1998 Act. In lobbying for the bill in 1998, the VTIA provided for the wireless E-911 fund to be subject to audit by the State Internal Auditor. The State advised that the audit function should be with the "Auditor of Public Accounts." The bill passed.

## **Wireless Carriers Finalize Cost Recovery Mechanism with Board**

The Board officially met for the first time in late January 1999 and continued meeting through May along with Virginia PSAPs and CMRS carriers to work out cost recovery guidelines for PSAPs and CMRS carriers. The Board was very much in favor of soliciting input from carriers and carriers made a presentation at a meeting providing an overview of 94-102 Phase I and II requirements, Cost Overview, NCAS Solution, CAS Solution, LEC Issues and other state Wireless E-911 Board activities. The Board finalized the PSAP cost recovery guidelines in March 1999. The Board then met in early May 1999 to complete CMRS cost recovery guidelines cost estimates that shall include wireless E-911 CMRS costs as defined in §56-484.8, which the carrier incurs in order to provide wireless E-911 service during the 7/1/1999-6/30/2000 fiscal year. Additionally, the Board distributed a letter requiring all carriers to begin submitting remittance collected on monthly bills beginning with the date carriers began collecting surcharges. The Board adopted a provision that a four-person subcommittee of the Board (the Chairman, the two PSAP members, and the local government finance officer) will hear presentations by the carriers regarding their cost. CMRS board members and the LEC board member will not be privy to carrier cost presentations. Carrier cost presentations are in-person or via conference call. The Board agreed that: CMRS cost recovery guidelines will not be a mandatory format; that the list may not be exhaustive; and that not all line items would be

applicable to all carriers. The Board indicated that they would be interested in having carriers who have a national pricing plan include in their presentation what the cost would be if the service were priced on actual Virginia costs. The Board decided that once everything is finalized, carrier presentations will need to take place no later than September 1. (In VA, cost recovery will be paid based on estimates. First payments are anticipated being made by Sept. 30th.) PSAPs must file their cost estimates no later than July 1, and carriers are currently receiving Phase I request letters from PSAPs.

## **WASHINGTON**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time. The existing \$0.25 per month per subscriber wireless 911 surcharge in Washington is not intended for wireless E911 implementation, according to state officials.

### **Choice of Technology Issues**

None at this time.

### **Other Issues**

None at this time.

### **History**

No funding mechanism exists to reimburse carriers for implementing wireless E911 at this time. RCW 82.14B.030(2) authorizes a county to impose a county 911 excise tax on wireless access lines in an amount not exceeding \$.25 per month, with funds going to counties. RCW 38.52.560 passed in conjunction with RCW 82.14B.0303, requires wireless service providers to "provide a system of automatic number identification "for 911 operators as follows." Neither of these contain provisions which provide for carrier cost recovery.

In 1998, carriers and PSAPs worked out a compromise bill for cost recovery but it failed to pass the legislature predominantly because it was seen as a tax increase. Instead they passed Chapter 346, laws of 1998, directing the Department of Revenue to conduct a study on how to implement wireless E911. Wireless companies were not identified in the legislation as parties to the study but the Department of Revenue included the wireless carriers upon request.

From 1994 through 1997, counties collected \$6.4 million in reported wireless revenues from the new wireless tax, but the wireless customers did not receive enhanced 911 service. Per 1997 data, several large carriers that were in operation in 1993 provide ANI service to customers in six counties at no charge.

A wireless carrier consortium group worked aggressively and sought legislation in a failed legislative attempt in 1998 and 1999. Legislation in 1999, HB 2050 would have authorized a new \$.45 statewide tax on wireless lines in addition to the \$.25 amount which the counties already impose. The bill failed for several reasons:

- (1) The PSAP community argued over how much money would go to PSAPs and who would comprise the wireless E911 oversight committee.
- (2) Some carriers requested inclusion of a provision calling for special approval of any costs exceeding 125% of a carrier's contributions to the fund. Some smaller and rural carriers objected to the inclusion of this provision, expressing a concern as to whether

carriers in high cost, rural areas or new entrants will be able to achieve full cost recovery.

(3) The 1999 legislative session passed little, if any, controversial legislation because the Washington House was evenly split between Democrats and Republicans.

(4) Certain PSAPs argued that wireless providers should provide ANI "for free" under RCW 38.52.560 while wireless carriers argued that the statute was preempted by subsequent FCC Order and that "free ANI" was not required.

It is anticipated that there will be several roadblocks to obtaining legislation in the future. The post 1999 legislative session will entail little, if any, change in the constituency of the House. Some PSAPs may continue to insist on "free ANI". Some wireless carriers question how collected revenues have been used to date. Some PSAPs may continue to insist on a locally controlled fund while carriers want a state administered fund. The PSAPs that agree to a state-administered fund want veto authority over decisions made by a wireless-PSAP board. Some carriers want to audit PSAP expenditures of collected wireless E911 funds.

It does not appear likely that the state will enact a cost recovery mechanism in the future and implementation of wireless E911 will, accordingly, be delayed. Some PSAPs however are attempting to independently purchase wireless E911 with existing funds. King County is one such example.

## **WEST VIRGINIA**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

West Virginia imposes a \$0.94 per month per subscriber wireless 911 surcharge, with 3% of collected funds dedicated to the purchase of "x-y coordinates equipment" by PSAPs. The West Virginia Public Service Commission is also investigating the creation of a carrier cost recovery mechanism, which does not currently exist in the state.

### **Choice of Technology Issues**

As part of the PSC investigation, a state-mandated selection of either CAS or NCAS architecture is being contemplated.

### **Other Issues**

None at this time.

### **History**

In West Virginia, state law gives each of the state's 55 counties the authority to determine whether to or not they will implement an E911 program and the ability to impose a fee upon consumers of local exchange service within that county.<sup>28</sup> Currently, 42 counties have enhanced landline 911, one has basic landline 911, six counties are in the process of developing a 911 system, and six counties do not have 911 and are not contemplating it in the near future.

In 1997, the State Legislature enacted Senate Bill No. 278 that provides for the collection of a "wireless enhanced 911 (E911) fee" by all CMRS providers from their subscribers, beginning January 1, 1998. The fee was established at \$.75 per month on all wireless subscribers with a West Virginia area code. The statute requires the public service commission (PSC)

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<sup>28</sup> W. Va. Code § 7-1-3cc(b)

to audit and recalculate the wireless fee every two years.<sup>29</sup> The first audit was conducted by the PSC this spring and raised the fee to \$.94 per wireless subscriber, as of July 1, 1999.

The CMRS providers retain three percent for a billing fee and remit the rest of the fee to the PSC. The PSC is to disburse the revenue in the following manner: One percent of the revenue is to go to each county that does not have a 911 system in place as of July 11, 1997 or that has established a 911 system within the five years prior to the enactment of the "E911 fee." The remainder of the revenue is to be divided among each of the counties on a pro rata basis which is to be derived from the county's percentage of total local exchange telephone access lines and line equivalents in service. Therefore, the formula used by the state to disperse the "E911 fee" is not tied to the cost associated with providing wireless E911.

Furthermore, according to West Virginia law, counties can use the revenue received from the "E911 fee" in the same manner as they use the money received for landline 911.<sup>30</sup> In short, this means that there is no statutory requirement under West Virginia law that the "E911 fee" received by a PSAP shall be used for implementing Phase I of wireless E911 and to our knowledge this money is being used to fund the general operations of the PSAPs. The law does require that 3% of the funds distributed to a county "shall be set aside in a special fund to be used exclusively for the purchase of equipment that will provide information regarding the x and y coordinates of persons who call an emergency telephone system through a commercial mobile radio service."<sup>31</sup> However, no other money is required to be set aside for the delivery of Phase II.

In 1997, the PSC held a rule-making proceeding, as proscribed in the statute, on the collection of the E911 fee. During the proceeding, the wireless industry raised a number of issues related to cost recovery. In its order, the Commission concluded that the issue of cost recovery raised by the commenters in the rule-making proceeding should be addressed in a broader proceeding. On February 5, 1998, before the Commission initiated its broader proceeding, the West Virginia Enhanced 9-1-1 Council (E911 Council), filed a letter with the Commission requesting a ruling regarding Bell Atlantic-West Virginia, Inc.'s (BA-WV) plan to charge individual 911 centers for the costs associated with tandem switching upgrades necessary to implement wireless E911 service. At the time, it was estimated that the cost for these upgrades would be \$200,000 per tandem or as much as \$30,000 per center. The E911 Council claimed that this cost would be prohibitive for smaller counties and argued that W. Va. Code § 24-6-4(d) requires the carriers to bear such costs. BA-WV argued in its response that regardless of the cost recovery mechanism it might propose, the Commission could not fairly resolve this matter without the participation of all other interested parties, including CMRS providers, PSAPs and other LECs. Both the E911 Council and the Commission Staff concurred and recommended that a general investigation be initiated. Therefore the commission opened Case No. 98-0637-T-GI General Investigation into the recovery of costs incurred implementing Enhanced 9-1-1 telecommunications service in West Virginia.

After comments and a hearing in which the wireless service providers participated, the Commission concluded that a task force should be established to address the complex issues associated with cost recovery. The task force is to submit a report to the Commission that includes, but is not limited to, the following items:

- A summary of the status of emergency and enhanced emergency telephone systems in West Virginia, including the counties with E911 systems.
- An estimate of costs to wireless and wireline carriers needed to make hardware and software changes necessary to implement E911 service in accordance with the requirements of West Virginia law and FCC orders and regulations, or whether it is appropriate to require wireless carriers to recover such costs through their rates and charges.

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<sup>29</sup> The fee shall be recalculated "so that it is the weighted average . . . of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance. *Provided*, That the Wireless enhanced 911 fee may never be increased by more than twenty-five percent of its value at the beginning of the respecification year." W. Va. Code § 24-6-6b(c)

<sup>30</sup> W. Va. Code § 24-6-6b(d)(2).

<sup>31</sup> W. Va. Code § 24-6-6b(g).

- A discussion as to whether a separate cost recovery mechanism should be established for wireline carriers, specifically LECs to implement E911 services throughout West Virginia. In particular, how cost recovery should be addressed in the Hagerstown LATA, which serves both Maryland and West Virginia.
- If a cost recovery mechanism should be established for either or both wireless and wire line carrier, recommendations should be made regarding the form of that mechanism. The report should provide a summary of cost recovery mechanisms employed in other states.

The Task Force members include representatives from the wireless industry coalition, the wire-line industry, the PSAP community, and the PSC staff. The task force has met six times over the last ten months. Initially, discussion focused on understanding the two competing technology choices, CAS and NCAS and who had the authority to make the technology choice: the wireless carrier, the LEC, the PSAP, or the State. The technology choice issue has not been resolved yet, however, the members of the task force decided that it was important to know the relative cost of each technology before it could move on. As a result, the wireless carriers made a presentation to the task force suggesting which costs would be recoverable and suggested a method for disclosing the information considering its proprietary nature. It was agreed that in order to make a fair comparison and an accurate estimate of the costs for the competing technologies, all wireless carries should be presenting costs based on the same assumptions. Since some costs are based on LATA, others on the number of counties served, and others on tariffed rates, a complex workbook was created by the wireless carriers that will allow all carriers in the state to calculate cost on a uniform basis for each of the competing technologies. The cost of the individual providers will then be aggregated by attorneys representing each of the interested parties. In addition, the PSAPs and LECs have been sent questionnaires regarding their estimated costs associated with providing wireless E911. Once all the information is collected, the task force will know approximately how much money will need to be generated in order for the costs to be recovered.

The task force has begun preliminary discussion on methods of cost recovery. The staff of the PSC has suggested recovering costs through an increase in carrier's rates. The wireless coalition has argued why they believe this approach is not in the best interest of the citizens of West Virginia. The wireless coalition believes that this approach will reduce wireless competition in the state. Most of the RSA's still operate under a duopoly structure and in some cases it is a local rural provider, who only operates in West Virginia, competing against a national carrier. If both carriers were to absorb the cost associated with delivering wireless E911, the small carrier would not be able to absorb this cost without substantially increasing its rates. It is estimated that market penetration rates in West Virginia's RSA's are approximately 10% of the population. Therefore, it is anticipated that the rural carrier will have a very small base to spread its cost over. As a result, it may have to raise its rates dramatically putting it at a competitive disadvantage. The national carrier has a much larger base to spread its costs over and therefore its rates would not be affected as much, if at all.

## **WISCONSIN**

### **Phase 1 Implementation Status**

None at this time.

### **Cost Recovery Mechanism**

None at this time.

#### **Choice of Technology Issues**

None at this time.

#### **Other Issues**

None at this time.

#### **History**

To date, the state of Wisconsin has no wireless E911 statute or cost recovery, and does not assess a 911 fee of any type on wireless customers. A meaningful legislative attempt was made by the wireless carriers beginning in early 1998. At that time, a wireless consortium group drafted a piece of proposed legislation and sought public safety's approval through their lobbyists. This culminated in a meeting arranged by US Cellular and Ameritech's lobbyists with the PSAP community in the summer of 1998.

At that time, the PSAP community committed to provide the industry with feedback and input on the industry's draft bill. The PSAPs provided no response to the bill until they requested another meeting between the carriers and the PSAPs in the spring of 1999. A meeting was held in early April, 1999 in Madison, Wisconsin and attended widely by the wireless carriers and the PSAP community. At that meeting, the PSAPs gave the wireless carriers their draft bill, an entirely new bill without providing any comment on the wireless bill that had been pending for comment for nine months.

In an attempt to move the process along, the wireless carriers agreed to work from the PSAP bill and provide feedback within a week. The wireless carriers convened amongst themselves and made changes to the PSAP bill, proposing that 20% of the funding go to the PSAP community until they demonstrated a need for additional funding. The wireless carriers were prepared to seek insertion of the bill in the state's budget to seek legislative passage of the bill as soon as possible. (In Wisconsin, the budget is the only bill considered until the fall legislative session).

The carriers were advised that only consensus measures would be adopted during the budget. In an attempt to obtain a consensus, the wireless carriers had several discussions with NENA's leader. They were informed that the funding needs of the PSAP community to implement Phase I E911 were minimal and that 20% would be more than adequate to meet their funding requirements. In addition, there was an internal dispute among APCO, NENA and the sheriffs as to how the division of funding would work and be distributed amongst themselves. The industry offered to permit language in the draft legislation to address the PSAPs concerns that would allow for the later creation of administrative rules to address the distribution of funding at the PSAP level.

In addition, a sheriff from Milwaukee, Wisconsin encouraged the PSAPs to await a PSAP meeting scheduled for the summer of 1999. Due to lack of a consensus, the wireless carrier legislative effort was stalled until the 1999 fall legislative session.

### **WYOMING**

#### **Phase 1 Implementation Status**

None at this time.

#### **Cost Recovery Mechanism**

None at this time.

**Choice of Technology Issues**

None at this time.

**Other Issues**

None at this time.

**History**

Wyoming does not currently have a statewide wireless E911 program and a mechanism for cost recovery, nor is there a current effort to establish such a program in Wyoming.

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